

## § 2.629

the site identified in the partial decision has been concluded, unless the Commission or presiding officer, upon its own initiative or upon motion by a party to the proceeding, finds that there exists significant new information that substantially affects the earlier conclusions and reopens the hearing record on site suitability issues. Upon good cause shown, the Commission may extend the 5-year period during which a partial decision shall remain in effect for a reasonable period of time not to exceed 1 year.

### **§ 2.629 Finality of partial decision on site suitability issues in a combined license proceeding.**

(a) The partial decision on site suitability issues in a combined license proceeding shall be incorporated in the decision regarding issuance of a combined license. Except as provided in 10 CFR 2.758, in making the findings required for issuance of a combined license, the Commission shall treat as resolved those matters resolved in connection with the issuance of the partial decision on site suitability issues. If the Commission reaches an adverse decision, the application shall be denied without prejudice for resubmission, provided, however, that in determining whether the resubmitted application is complete and acceptable for docketing under § 2.101(a)(3), the Director of the Office of New Reactors or the Director of the Office of Nuclear Reactor Regulation, as appropriate, shall determine whether the resubmitted application addresses those matters identified as bases for denial of the original application.

(b) Notwithstanding any provision in 10 CFR 50.109, while a partial decision on site suitability is in effect under § 2.617(b)(2), the Commission may not modify, rescind, or impose new requirements with respect to matters within the scope of the site suitability decision, whether on its own motion, or in response to a request or petition from any person, unless the Commission determines that a modification to the original decision is necessary either for compliance with the Commission's regulations applicable and in effect at the time the partial decision was issued, or to assure adequate protection of the

## 10 CFR Ch. I (1–1–11 Edition)

public health and safety or the common defense and security.

### **PHASED APPLICATIONS INVOLVING LIMITED WORK AUTHORIZATIONS**

SOURCE: 72 FR 57440, Oct. 9, 2007, unless otherwise noted.

### **§ 2.641 Filing fees.**

Each application which contains a request for limited work authorization under the procedures of § 2.101(a)(9) and this subpart shall be accompanied by any fee required by § 50.30(e) and part 170 of this chapter.

### **§ 2.643 Acceptance and docketing of application for limited work authorization.**

(a) Each part of an application submitted in accordance with § 2.101(a)(9) will be initially treated as a tendered application. If it is determined that any one of the parts as described in § 2.101(a)(9) is incomplete and not acceptable for processing, the Director of New Reactors or the Director of Nuclear Reactor Regulation will inform the applicant of this determination and the respects in which the document is deficient. A determination of completeness will generally be made within a period of 30 days.

(b) The Director will accept for docketing part one of an application for a construction permit for a utilization facility which is subject to § 51.20(b) of this chapter and is of the type specified in § 50.21(b)(2) or (3) or § 50.22 of this chapter or an application for a combined license where part one of the application as described in § 2.101(a)(9) is complete. Part one will not be considered complete unless it contains the information required by § 50.10(d)(3) of this chapter. Upon assignment of a docket number, the procedures in § 2.101(a)(3) and (4) relating to formal docketing and the submission and distribution of additional copies of the application must be followed.

(c) If part one of the application is docketed, the Director will cause to be published in the FEDERAL REGISTER and send to the Governor or other appropriate official of the State in which the site is located, a notice of docketing of the application which states the purpose of the application, states

the location of the proposed site, states that a notice of hearing will be published, and requests comments on the limited work authorization from Federal, State, and local agencies and interested persons. The notice will state that comments must be submitted to the NRC within 60 days or such other time as may be specified in the notice.

(d) Part two of the application will be docketed upon a determination by the Director that it is complete.

(e) If part two of the application is docketed, the Director will cause to be published in the FEDERAL REGISTER and sent to the Governor or other appropriate official of the State in which the site is located, a notice of docketing of part two of the application which states the purpose of the application, states that a notice of hearing will be published, and requests comments on the construction permit or combined license application, as applicable, from Federal, State, and local agencies and interested persons. The notice will state that comments must be submitted to the NRC within 60 days or such other time as may be specified in the notice.

#### § 2.645 Notice of hearing.

(a) The notice of hearing on part one of the application must set forth the matters of fact and law to be considered, as required by § 2.104, which will be modified to state that the hearing will relate only to the matters related to § 50.33(a) through (f) of this chapter, and the limited work authorization.

(b) After docketing of part two of the application, as provided in §§ 2.101(a)(9) and 2.643(d), a supplementary notice of hearing will be published under § 2.104 with respect to the remaining unresolved issues in the proceeding within the scope of § 2.104. The supplementary notice of hearing will provide that any person whose interest may be affected by the proceeding and who desires to participate as a party in the resolution of the remaining issues shall, file a petition for leave to intervene within the time prescribed in the notice. The petition to intervene must meet the applicable requirements in subpart C of this part, including § 2.309. This supplementary notice will also provide appropriate opportunities for participation

by a representative of an interested State under § 2.315(c) and for limited appearances under § 2.315(a).

(c) Any person who was permitted to intervene under the initial notice of hearing on the limited work authorization and who was not dismissed or did not withdraw as a party, may continue to participate as a party with respect to the remaining unresolved issues only if, within the time prescribed for filing of petitions for leave to intervene in the supplementary notice of hearing, that person files a petition for intervention which meets the applicable requirements in subpart C of this part, including § 2.309, *provided, however*, that the petition need not address § 2.309(d). However, a person who was granted discretionary intervention under § 2.309(e) must address in its petition the factors in § 2.309(e) as they apply to the supplementary hearing.

(d) A party who files a non-timely petition for intervention under paragraph (b) of this section to continue as a party may be dismissed from the proceeding, absent a determination that the party has made a substantial showing of good cause for failure to file on time, and with particular reference to the factors specified in §§ 2.309(c)(1)(i) through (iv) and 2.309(d). The notice will be ruled upon by the Commission or presiding officer designated to rule on petitions for leave to intervene.

(e) To the maximum extent practicable, the membership of the Atomic Safety and Licensing Board, or the individual presiding officer, as applicable, designated to preside in the proceeding on the remaining unresolved issues under the supplemental notice of hearing will be the same as the membership or individual designated to preside in the initial notice of hearing.

#### § 2.647 [Reserved]

#### § 2.649 Partial decisions on limited work authorization.

The provisions of §§ 2.331, 2.339, 2.340(b), 2.343, 2.712, and 2.713 apply to any partial initial decision rendered in accordance with this subpart. Section 2.340(c) does not apply to any partial initial decision rendered in accordance with this subpart. A limited work authorization may not be issued under 10